DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No 080630803–8805–01]

RIN 0648–AW99

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Termination of Expansion of Emergency Fishery Closure Due to the Presence of the Toxin that Causes Paralytic Shellfish Poisoning

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of termination.

SUMMARY: NMFS is announcing the termination of the revised and expanded Northern Temporary Paralytic Shellfish Poison (PSP) Closure Area, which became effective on July 2, 2008, and the return of the Northern and Southern Temporary PSP Closure Areas to their boundaries, previously implemented on January 1, 2008, and effective through December 31, 2008. Thus, the effect of this notice will be to partially reopen a large area around Nantucket Island to the harvest of certain shellfish species. Regulations governing fishery closures in response to public health threats require concurrence with the Secretary of Health and Human Services prior to any NMFS action on behalf of the Secretary of Commerce (Secretary).

DATES: Effective November 18, 2008, to December 29, 2008.

ADDRESSES: Written inquiries may be sent to Patricia A. Kurkul, National Marine Fisheries Service, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Timothy Cardiasmenos, Fishery Policy Analyst, (978) 281–9204; fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: On December 31, 2007, at the request of the U.S. Food and Drug Administration (FDA), NMFS published an emergency action in the **Federal Register** (72 FR 74207), closing the Northern and Southern Temporary PSP Closure Areas from January 1, 2008 through December 31, 2008. On June 25, 2008, NMFS received a request from the FDA to revise and expand the Northern Temporary PSP Closure Area after samples of shellfish off of the coast of Massachusetts tested positive for the toxins (saxotoxins) that cause PSP. In response to the June 25th request, NMFS revised the January 1, 2008, closure to implement modified boundaries of the Northern and Southern Temporary PSP Closure Areas through an emergency action published in the **Federal Register** (73 FR 38340).

The FDA submitted a letter to NMFS on November 6, 2008, requesting the termination of the recently expanded Northern Temporary PSP Closure Area, and a continuation of the previously authorized closure. The FDA has determined that adequate samples of shellfish from the modified closure area, east of Nantucket Island, have tested well within safe limits for the toxins (saxotoxins) that cause PSP. These toxins are produced by the alga Alexandrium fundyense, which can form blooms commonly referred to as red tides. The FDA now finds that the modified portion of the Northern Temporary PSP Closure Area is safe for the harvest of Atlantic surfclams, ocean quahogs, and scallops harvested and shucked at sea for adductor muscles only. The FDA maintains its determination that the harvest of whole and roe-on scallops is still unsafe from this area. This action terminates the closure published on July 7, 2008, and reinstates the closure as published on December 31, 2007.

This notice is issued pursuant to section 305(c)(3)(D) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1855(c). That section states that any emergency regulation implemented under 305(c) ''may be terminated by the Secretary at an earlier date by publication in the **Federal Register** of a notice of termination.''

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 17, 2008.

Samuel D. Rauch III,

Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.

[FR Doc. E8–27749 Filed 11–18–08; 4:15 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 080206127–81426–02]

RIN 0648–AS71

Fisheries in the Western Pacific; Pelagic Fisheries; Squid Jig Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule designates three species of pelagic squid as management unit species, and establishes permitting and reporting requirements for squid jig fishing vessels over 50 ft (15.4 m) in length. These vessels will also be required to carry Federal observers if requested by NMFS. The final rule is intended to improve information on squid jig fisheries and their ecosystem impacts, and to provide a basis for future management of the fishery, if needed.

DATES: This final rule is effective December 22, 2008, except for the amendments to §§ 665.13, 665.14, 665.21, and 665.22, which require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). When OMB approval is received, the effective date will be announced in the **Federal Register**.

ADDRESSES: The Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (Pelagics FMP) and Amendment 15 are available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, fax 808–522–8226, or *www.wpcouncil.org*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to William L. Robinson Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd, Suite 1110, Honolulu, HI 96814 4700, and by e-mail to *David__Rostker@omb.eop.gov* or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Brett Wiedoff, NMFS PIR Sustainable Fisheries Division, 808–944–2272.

SUPPLEMENTARY INFORMATION: This **Federal Register** is also accessible at the Office of the **Federal Register**'s web site: *www.gpoaccess.gov/fr*.

Pelagic squid are targeted by fisheries for food and bait throughout the Pacific. They are widely dispersed and short-lived, with relatively high reproduction rates, and are difficult to over-harvest by jigging. There is no evidence of over-harvesting of pelagic squid stocks on the high seas or in EEZ waters around U.S. islands in the western Pacific. They are a major component of the pelagic ecosystem, with large species preying on a variety of fish and invertebrate species, and smaller species providing important forage components for species such as swordfish and pilot whales. This key role of squid in the trophic web suggests that squid may be an important indicator of ecosystem dynamics.

This final rule implements measures that will provide additional information about squid jig fisheries, and will establish a foundation for the Council and NMFS to effectively monitor and manage U.S. pelagic squid jig fisheries, as follows:

- Add three pelagic squid species to the pelagic management unit (neon flying squid, *Ommastrephes bartramii*, diamondback squid, *Thysanoteuthis rhombus*, and purpleback flying squid, *Sthenoteuthis oualaniensis*); and
- Require operators of U.S. vessels greater than 50 ft (15.4 m) in length overall that fish for pelagic squid in waters of the U.S. Exclusive Economic Zone (EEZ) of the western Pacific to:

i. Obtain Federal permits;

ii. Carry Federal observers if requested by NMFS; and

iii. Report any Pacific pelagic squid catch and effort either in Federal squid logbooks or via existing state reporting systems.

U.S. squid jig vessels that fish only on the high seas in the western Pacific will be required to report their catch and effort using the new Federal squid logbooks, pursuant to the reporting and recordkeeping provision of the High Seas Fishing Compliance Act (HSFCA).

Additional background information on this final rule may be found in the preamble to the proposed rule published on August 28, 2008 (73 FR 50751), and is not repeated here.

Comments and Responses

On August 11, 2008, NMFS published a notice of availability and request for public comments on Amendment 15, including a Draft Environmental Assessment (73 FR 46580). The amendment comment period ended on October 10, 2008. On August 28, 2008, NMFS published a proposed rule (73 FR 50751) that would implement the management measures recommended by the Council in Amendment 15. The proposed rule comment period ended on October 14, 2008. NMFS received comments from the public, and responds as follows:

Comment 1: How does the squid jig fishery indirectly impact seabirds by reducing prey availability?

Response: In subtropical waters, many of the seabird species, including boobies, terns, and shearwaters, are important predators of squid, especially *S. oualaniensis*. During winter and spring, *O. bartramii* may become more common prey for seabirds as the squid undergo southern spawning migrations to the subtropics from more temperate waters that are inhabited during the summer and fall. However, there are currently no major high seas fisheries in the central North Pacific targeting this squid (or any of the three species being added to the management unit) so the impacts on this seabird's prey are likely to be minimal. This rule does not change squid fishing operations, so there will be no changes to seabird prey availability. Improved understanding of western Pacific squid jig fisheries through the data collection and observer programs implemented by this rule will allow NMFS and the Council to better assess the potential direct and indirect impacts of squid jig fisheries on seabirds.

Comment 2: Given that information is limited, commercial squid fishing is likely to impact squid stocks. What is the basis for indicating that the stocks are healthy?

Response: A major purpose of the action is to obtain information on a domestic fishery about which we know little. Squids are fast-growing and short-lived, with high natural mortality rates. Such species are typically able to withstand fishing pressure much more resiliently than longer-lived, slower-growing species. Even if heavily fished, there is evidence that pelagic squid populations can recover rapidly. For example, stock abundance of *O. bartramii* in the western central Pacific was extremely low in 1993, probably due to high fishing rates derived from the now defunct Asian high seas driftnet fishery. After a United Nations global moratorium on all large-scale driftnet fisheries in 1992, the *O. bartramii* stock recovered quickly and abundance was high during 1994–96.

The western Pacific pelagic squid jig fishery for *O. bartramii* is inactive, but during 2003, when the high seas component of the fishery was last known to be active, our best available information indicates that four vessels harvested 20,253 kg of pelagic squid. Based on this information, it appears the magnitude of the fishery is relatively small compared with other western Pacific pelagic fisheries, such as longline and tuna purse seine. Therefore, we believe fishery impacts on squid stock, habitat, non-target fish species and protected resources (sea turtles, seabirds, marine mammals) are likely to be commensurately small, if not insignificant. Nonetheless, permitting and reporting requirements implemented by this final rule will enable NMFS and the Council to monitor the fishery for signs of overfishing and initiate management actions in a timely manner, if warranted.

Comment 3: What information will be collected in the new squid fishing logbooks?

Response: The data to be collected include environmental conditions, gear configuration, fishing effort, catch and discards, bycatch, and protected species interactions. These are fishery-dependent data required for management action.

Changes From the Proposed Rule

There are no changes from the proposed rule.

Classification

The Regional Administrator, Pacific Islands Region, NMFS, determined that Pelagics FMP Amendment 15 is necessary for the conservation and management of the pelagic squid fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). These requirements have not yet been approved by OMB, but such approval is expected in the near future. NMFS will publish a notice when these requirements are cleared by OMB and are, therefore, effective (see DATES). NMFS anticipates that initial permit applications would require 0.5 hours per applicant, with renewals requiring

an additional 0.5 hours annually. It is estimated that NMFS may receive and process up to 30 permit applications each year. Thus, the total collection-of-information burden to fishermen for permit applications is estimated at 15 hours per year. The cost for individual Federal permits has not been determined, but would represent only the administrative cost and is anticipated to be approximately $30 per permit.

NMFS anticipates the time requirement to complete Federal catch reports to be approximately 10 minutes per vessel per fishing day. Assuming that the 30 vessels fish during up to 100 days per year, the total collection-of-information burden estimate for fishing data reporting is estimated at 500 hours per year. These estimates include the time for reviewing instructions, searching and compiling existing data sources, and completing and reviewing the collection information. Send comments on these burden estimates or any other aspects of this data collection, including suggestions for reducing the burden to William L. Robinson (see **ADDRESSES**), and by e-mail to *David__Rostker@omb.eop.gov* or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 665

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaii, Hawaiian Natives, Northern Mariana Islands, Pacific remote island areas, Reporting and recordkeeping requirements.

Dated: November 17, 2008.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 665 is to be amended as follows:

PART 665—FISHERIES IN THE WESTERN PACIFIC

■ 1. The authority citation for part 665 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 665.12, amend the definition for ''Pacific Pelagic Management Unit Species'' by adding three squid species to the end of the table, and add a definition for ''Squid jig fishing'' in alphabetical order to read as follows:

§ 665.12 Definitions.

* * * * *

Pacific Pelagic Management Unit Species * * *

Common name	Scientific name
* * * * * * *	
Squid:	
Diamondback squid	Thysanoteuthis rhombus
Neon flying squid	Ommastrephes bartramii
Purpleback flying squid	Sthenoteuthis oualaniensis

* * * * *

Squid jig fishing means fishing for squid that are Pelagic management unit species using a hook or hooks attached to a line that is raised and lowered in the water column by manual or mechanical means.

* * * * *

■ 3. In § 665.13, revise paragraphs (f)(2)(i) through (f)(2)(v), and add a new paragraph (f)(2)(vi) to read as follows:

§ 665.13 Permits and fees.

* * * * *

(f) Fees. * * *

(2) * * *

(i) Hawaii longline limited access permit.

(ii) Mau Zone limited access permit.

(iii) Coral reef ecosystem special permit

(iv) American Samoa longline limited access permit.

(v) Main Hawaiian Islands non-commercial bottomfish permit.

(vi) Western Pacific squid jig permit.

* * * * *

■ 4. In § 665.14, revise paragraph (a)(1) to read as follows:

§ 665.14 Reporting and recordkeeping.

(a) *Fishing record forms.* (1) *Applicability.* (i) The operator of any fishing vessel subject to the requirements of §§ 665.21, 665.41, 665.61(a)(2), 665.61(a)(3), 665.61(a)(4), 665.81, or 665.602 must maintain on board the vessel an accurate and complete record of catch, effort, and other data on paper report forms provided by the Regional Administrator, or electronically as specified and approved by the Regional Administrator, except as allowed in paragraph (a)(1)(iii) of this section.

(ii) All information specified by the Regional Administrator must be recorded on paper or electronically within 24 hours after the completion of each fishing day. The logbook information, reported on paper or electronically, for each day of the fishing trip must be signed and dated or otherwise authenticated by the vessel operator in the manner determined by the Regional Administrator, and be submitted or transmitted via an approved method as specified by the Regional Administrator, and as required by this paragraph (a).

(iii) In lieu of the requirements in paragraph (a)(1)(i) of this section, the operator of a fishing vessel registered for use under a Western Pacific squid jig permit pursuant to the requirements of § 665.21(g) may participate in a state reporting system. If participating in a state reporting system, all required information must be recorded and submitted in the exact manner required by applicable state law or regulation.

* * * * *

■ 5. In § 665.21, redesignate paragraphs (g) through (n) as paragraphs (h) through (o), and add a new paragraph (g) to read as follows:

§ 665.21 Permits.

* * * * *

(g) A vessel of the United States must be registered for use under a Western Pacific squid jig fishing permit, if that vessel is more than 50 ft (15.4 m) in length overall and is used to squid jig fish in EEZ waters around American Samoa, the CNMI, Guam, Hawaii, or the PRIA.

* * * * *

■ 6. In § 665.22 add new paragraph (zz) to read as follows:

§ 665.22 Prohibitions.

* * * * *

(zz) Use a vessel that is greater than 50 ft (15.4 m) in length overall to squid jig fish in EEZ waters around American Samoa, the CNMI, Guam, Hawaii, or the PRIA, without a Western Pacific squid jig fishing permit registered for use with that vessel, in violation of § 665.21(g).

■ 7. In § 665.23, revise paragraph (a), redesignate paragraphs (b) and (c) as paragraphs (d) and (e), and add new paragraphs (b) and (c) to read as follows:

§ 665.23 Notifications.

(a) The permit holder, or designated agent, for any vessel registered for use under a Hawaii longline limited access permit, or for any vessel greater than 40 ft (12.2 m) in length overall that is registered for use under an American Samoa longline limited access permit, shall provide a notice to the Regional Administrator at least 72 hours (not

including weekends and Federal holidays) before the vessel leaves port on a fishing trip, any part of which occurs in the EEZ around the Hawaiian Archipelago or American Samoa. The vessel operator will be presumed to be an agent designated by the permit holder unless the Regional Administrator is otherwise notified by the permit holder. The permit holder or designated agent for a vessel registered for use under Hawaii longline limited access permits must also provide notification of the trip type (either deep-setting or shallow-setting).

(b) The permit holder, or designated agent, for any vessel registered for use under a Western Pacific squid jig fishing permit that is greater than 50 ft (15.4 m) in length overall, shall provide a notice to the Regional Administrator at least 72 hours (not including weekends and Federal holidays) before the vessel leaves port on a fishing trip, any part of which occurs in western Pacific EEZ waters. The vessel operator will be presumed to be an agent designated by the permit holder unless the Regional Administrator is otherwise notified by the permit holder.

(c) For purposes of this section, the notice must be provided to the office or telephone number designated by the Regional Administrator. The notice must provide the official number of the vessel, the name of the vessel, the intended departure date, time, and location, the name of the operator of the vessel, and the name and telephone number of the permit holder or designated agent to be available between 8 a.m. and 5 p.m. (local time) on weekdays for NMFS to contact to arrange observer placement.

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[FR Doc. E8–27775 Filed 11–20–08; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 070719388–81445–03]

RIN 0648–AV29

Fisheries in the Western Pacific; Crustacean Fisheries; Deepwater Shrimp

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule implements Amendment 13 to the Fishery Management Plan for Crustacean Fisheries of the Western Pacific Region (Crustacean FMP). The rule designates deepwater shrimp of the genus *Heterocarpus* as management unit species (MUS), and requires Federal permits and data reporting for deepwater shrimp fishing in Federal waters of the western Pacific. The final rule is intended to improve information on deepwater shrimp fisheries and their ecosystem impacts, and to provide a basis for future management of the fisheries, if needed.

DATES: This final rule is effective December 22, 2008, except for the amendments to §§ 665.13, 665.41, and 665.42, which require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). When OMB approval is received, the effective date will be announced in the **Federal Register**.

ADDRESSES: The Fishery Management Plan for Crustacean Fisheries of the Western Pacific Region and Amendment 13 are available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, fax 808–522–8226, or *www.wpcouncil.org*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to William L. Robinson, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd, Suite 1110, Honolulu, HI 96814–4700, and by e-mail to *David_Rostker@omb.eop.gov*, or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Brett Wiedoff, NMFS PIR Sustainable Fisheries Division, 808–944–2272.

SUPPLEMENTARY INFORMATION: This final rule is accessible at the Office of the **Federal Register**'s web site: *www.gpoaccess.gov/fr/*.

Crustacean fisheries in the western Pacific are Federally-managed within the waters of the U.S. Exclusive Economic Zone (EEZ) around American Samoa, the Commonwealth of the Northern Mariana Islands (CNMI), Guam, Hawaii, and the Pacific Remote Island Areas (PRIA, comprising Palmyra Atoll, Kingman Reef, Jarvis Island, Baker Island, Howland Island, Johnston Atoll, Wake Island, and Midway Atoll). The EEZ around the CNMI and PRIA extends from the shoreline seaward to 200 nautical miles (nm), and the EEZ around the other islands extends from three to 200 nm offshore. Currently, the crustaceans FMP management unit species include the spiny lobsters *Panulirus marginatus* and *P. penicillatus*, slipper lobsters of the family Scyllaridae, and Kona (spanner) crab, *Ranina ranina*.

Western Pacific commercial trap fisheries for deepwater shrimp are intermittent. There have been sporadic operations in Hawaii since the 1960s, small-scale fisheries in Guam during the 1970s, and some activity in the CNMI during the mid–1990s. The fisheries have been unregulated, and there has been no comprehensive collection of information about the fisheries. Most of these fishing ventures have been short-lived, probably as a result of sometimes-frequent loss of traps, a shrimp product with a short shelf life and history of inconsistent quality, and the rapid localized depletion of deepwater shrimp stocks leading to low catch rates. Despite these hurdles, interest in deepwater shrimp fisheries continues.

Amendment 13 designates deepwater shrimp of the genus *Heterocarpus* as management unit species under the FMP, and requires Federal permits and reporting for deepwater shrimp fishing in the U.S. EEZ. The species complex includes all eight species of deepwater shrimp in the western Pacific (*Heterocarpus ensifer, H. laevigatus, H. sibogae, H. gibbosus, H. lepidus, H. dorsalis, H. tricarinatus* and *H. longirostris*). The monitoring program (permits and logbooks) is intended to improve understanding of these fisheries and their impact on marine ecosystems. Although currently there are no resource concerns regarding western Pacific deepwater shrimp, the designation of these shrimp as management unit species provides a basis for management of the fisheries, if warranted in the future.

In addition to the final rule, Amendment 13 designates Essential Fish Habitat (EFH) for *Heterocarpus* spp., as required under the Magnuson-Stevens Act. EFH was designated for the complete assemblage of adult and juvenile *Heterocarpus* as the outer reef slopes between 300 and 700 meters surrounding all islands and submerged banks in EEZ waters of the western Pacific.

In addition to adding deepwater shrimp to the management unit, this final rule reorganizes some existing regulations relating to the Northwestern Hawaiian Islands (NWHI) lobster limited access permit program. These regulations, now in paragraphs § 665.41(a)(1), (a)(3), (a)(4), and 665.41(d), are consolidated into paragraph § 665.41(d). The regulations also clarify that the harvest of